

§ 3.1009

amount thereof remains in the special deposit account established by Pub. L. 828, 76th Congress, such amount will be payable under section 3 of that act. (31 U.S.C. 125) However, the accrued amount will be payable only if the person on whose behalf checks were issued and the person claiming the accrued amount have not been guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies.

[26 FR 1609, Feb. 24, 1961]

§ 3.1009 Personal funds of patients.

The provisions of this section are applicable to gratuitous benefits deposited by the Department of Veterans Affairs either before, on, or after December 1, 1959, in a personal funds of patients account for an incompetent veteran who was incompetent at the date of death. Where the veteran died after November 30, 1959:

(a) *Eligible persons.* Gratuitous benefits shall be paid to the living person first listed as follows:

(1) His or her spouse, as defined in § 3.1000(d)(1);

(2) His or her children (in equal shares), as defined in § 3.57 but without regard to their age or marital status;

(3) His or her dependent parents (in equal shares) as defined in § 3.59 or the surviving parent, provided that the parent was dependent within the meaning of § 3.250 at the date of the veteran's death.

(4) In all other cases, only so much may be paid as may be necessary to reimburse a person who bore the expense of last sickness or burial. (See § 3.1002.)

(Authority: 38 U.S.C. 5502(d))

(b) *Claim.* Application must be filed with the Department of Veterans Affairs within 5 years after the death of the veteran. If, however, any person otherwise entitled is under legal disability at the time of the veteran's death, the 5-year period will run from the date of termination or removal of the legal disability.

(1) There is no time limit for the submission of evidence.

(2) Failure to file timely claim, or a waiver of rights, by a preferred dependent will not serve to vest title in a per-

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son in a lower class or a claimant for reimbursement; neither will such failure or waiver by a person or persons in a joint class serve to increase the amount payable to another or others in the class.

[27 FR 5539, June 12, 1962, as amended at 28 FR 10487, Sept. 28, 1963; 39 FR 30349, Aug. 22, 1974]

Subpart B—Burial Benefits

AUTHORITY: 105 Stat. 386, 38 U.S.C. 501(a), 2302-2308, unless otherwise noted.

§ 3.1600 Payment of burial expenses of deceased veterans.

For the purpose of payment of burial expenses the term *veteran* includes a person who died during a period deemed to be active military, naval or air service under § 3.6(b)(6). The period of active service upon which the claim is based must have been terminated by discharge or release from active service under conditions other than dishonorable.

(a) *Service-connected death and burial allowance.* If a veteran dies as a result of a service-connected disability or disabilities, an amount not to exceed the amount specified in 38 U.S.C. 2307 (or if entitlement is under § 3.40(b), (c), or (d), an amount computed in accordance with the provisions of § 3.40(b) or (c)) may be paid toward the veteran's funeral and burial expenses including the cost of transporting the body to the place of burial. Entitlement to this benefit is subject to the applicable further provisions of this section and §§ 3.1601 through 3.1610. Except as provided in § 3.1604(d)(5), payment of the service-connected death burial allowance is in lieu of payment of any benefit authorized under paragraph (b), (c) or (f) of this section.

(Authority: 38 U.S.C. 2307)

(b) *Nonservice-connected death burial allowance.* If a veteran's death is not service-connected, an amount not to exceed the amount specified in 38 U.S.C. 2302 (or if entitlement is under § 3.40(b), (c), or (d), an amount computed in accordance with the provisions of § 3.40(b) or (c)) may be paid toward the veteran's funeral and burial